

SERVICE DATE – MARCH 25, 2013

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 303 (Sub-No. 40X)

**Wisconsin Central Ltd. – Abandonment Exemption –
In Outagamie County, Wis.**

BACKGROUND

In this proceeding, the Wisconsin Central Ltd. (WCL) Railway Company filed a notice under 49 C.F.R. § 1152.52 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a portion of rail line in Outagamie County, Wisconsin. The rail line proposed for abandonment extends approximately 1.10 miles from milepost 114.00 to milepost 112.90 (the Line). The proposed abandonment traverses Zip Code 54130. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, WCL will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

WCL states that the Line was constructed in 1871-73 by the Appleton and New London Railway Company, a predecessor of the Milwaukee, Lake Shore and Western Railway Company. WCL acquired the Line through various acquisitions and mergers and provided service from 2002-09. The Line travels along the south side of the Fox River through the City of Kaukauna. The area has a well-established transportation system, and contains a number of recreational trails, parks, and natural areas. WCL states that there are no structures on the rail line proposed for abandonment including bridges and culverts. A portion of rail line beyond the current end of track at milepost 112.9 was abandoned in 2010. Wisconsin Central Ltd.– Abandonment Exemption–In Outagamie County, WI, Docket No. AB 303 (Sub-No. 35X) (STB served on Dec. 15, 2009).

ENVIRONMENTAL REVIEW

WCL submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. WCL served the environmental report on a number of appropriate federal, state, and local agencies as required

by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

WCL states that no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. If abandonment authority is granted, WCL would salvage the rail, tie, and track material. WCL would retain the ballast and roadbed so as not to alter the existing contours or impede existing drainage flows. In addition, WCL would use existing access routes to minimize disturbance to the soil and surrounding landscape.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

The Wisconsin Department of Natural Resources (WDNR) provided comments on the potential impacts to various resources from the proposed abandonment. These resource areas include water quality, wetlands, 100-year floodplain, wildlife sanctuaries, endangered or threatened species and critical habitats, soil and water conservation, coastal zone management, land uses, and waste and demolition disposal. While WDNR requests certain actions if the right-of-way is converted to a trail or other interim use, OEA notes that the Board will generally not require mitigation for existing conditions along the rail line or future maintenance of the right-of-way. It is well settled that in conducting environmental reviews of abandonment cases, the Board's role is limited to the anticipated impacts of the proposal before the agency, e.g., the likely diversion of traffic to other rail lines or transportation modes and the likely disruptive consequences of removing the track and related structures. Iowa Southern R. Co.-Exemption-Abandonment, 5 I.C.C.2d 496, 501 (1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990). Accordingly, OEA recommends that a condition be imposed upon any decision granting

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 303 (Sub-No. 40X).

abandonment authority requiring WCL to consult with WDNR regarding its concerns and comply with the reasonable requirements related to salvage.

OEA has not yet received responses from several federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. Therefore, OEA is sending a copy of this EA to the following agencies for review and comment: the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the National Park Service, the Natural Resource Conservation Service, the U.S. Fish and Wildlife Service, the National Geodetic Survey, the Wisconsin Department of Transportation, the Wisconsin Clearinghouse for Prevention Resources, the Wisconsin Department of Administration, the Wisconsin Coastal Zone Management Program, and the Outagamie County Planning Board.

HISTORIC REVIEW

WCL submitted a historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Wisconsin Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.² The database indicated that there is one federally-recognized tribe that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. The tribe is Oneida Tribe of Wisconsin. OEA has included the tribe in the service list for the proposed abandonment so that it may receive a copy of the EA.

² Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited March 11, 2013).

CONDITION

We recommend that the following condition be imposed on any decision granting abandonment authority:

1. Prior to commencement of any salvage activities, Wisconsin Central Ltd. shall consult with the Wisconsin Department of Natural Resources and comply with its reasonable requirements related to salvage.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board=s web site, www.stb.dot.gov, by clicking on the “E-FILING” link. **Please refer to Docket No. AB 303 (Sub-No. 40X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: March 25, 2013.

Comment due date: April 9, 2013.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment